IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12747 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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CHIEF OFFICER

Versus

NILESH B MAKWANA

Appearance:

1. Special Civil Application No. 12747 of 2001
MS SEJAL K MANDAVIA for Petitioner No. 1
MR CHIRAG M PAWAR for Respondent No. 1

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 13/08/2002

ORAL JUDGEMENT

Rule. Mr.Chirag Pawar, Ld. Advocate waives service of rule for the respondent. By consent, the matter is taken up for final hearing today.

2. By the impugned award dated 28.9.1999, the Labour Court has passed an order of reinstatement in favour of the respondent workman with full backwages. The said

order is challenged by the petitioner-employer. The Learned Advocate for the petitioner argued that the respondent can be reinstated in service without backwages. She submitted that in the facts and circumstances of the case, considering the fact that the respondent was serving as a dailywager, no back wages should have been awarded. She has mainly confined her argument only regarding backwages. It is not in dispute that the services of the respondent was terminated without following appropriate procedure under Section 25(f) of the Industrial Disputes Act. The Labour Court has considered the aforesaid aspect in the award. So far as the backwages is concerned, the Learned Advocate for the respondent submits that since the workman is out of job, he is interested in reinstatement and therefore, he is foregoing the backwages for the entire period. In these circumstances, with the consent of both the parties, the following order is passed:-

O R D E R

The order of the Labour Court is modified. The order of full backwages granted by the Labour Court is quashed and set aside. The petitioner-employer shall reinstate the workman on or before 31.10.2002 and from the aforesaid date, the respondent will be entitled to regular salary. It is clarified that so far as other benefits like continuity of service etc. are concerned, the same are not disturbed and this order is modified to the extent of backwages in toto. Rule is made absolute with no order as to costs.

(P.B.Majmudar, J)
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